

REMARKS

Reconsideration and withdrawal of the rejection and the allowance of all claims now pending in the above-identified patent application (*i.e.*, Claims 18-32) are respectfully requested in view of the foregoing amendments and the following remarks.

At the outset, the present invention, as now claimed, provides an interactive ball game that includes a ball and a screen, upon which the interactive ball game is displayed, with the screen acting as a target for the ball. The invention, as now positively claimed, further includes means for player interaction with the ball for permitting a player to strike the ball and directing motion of the ball toward the screen for simulating player participation in the interactive ball game; there being means for preventing the ball from actually hitting the screen and causing damage thereto. The motion of the ball after being struck by the player is monitored, or sensed, by ball sensing means for detecting motion of the ball as the ball passes through the ball sensing means, which includes software for determining the trajectory of the ball and the given player's level of success in the interactive ball game relative to the target. Finally, in sharp contrast to prior art gaming devices, means are provided for allowing the interactive ball game of the present invention to react to the trajectory of the ball and the player's level of success, as determined by the ball sensing means, for permitting the interactive ball game to challenge, or compete against, an effort by the player to win the interactive ball game depending upon the given player's detected level of success.

The presently claimed invention provides, for example, an interactive display

video, when the interactive ball game is football, which shows an attempt by “opposing” team players to block the football when, for example, a kick is being attempted. The ball game played, of course, does not have to be football; rather, any type of ball game can be adapted for use in connection with the present invention. It is therefore an important feature of the present invention, as now claimed, that the software used for playing the interactive electronic ball game continually waits for a ball to be kicked, hit or thrown. When the ball sensing means detects the motion of the ball moving toward the screen, the screen displays existing video, or “existing game graphics,” in response to “ball behavior algorithms” to create images and, thus, interactive games, from existing game content videos. (See, e.g., Applicant’s *Specification* at Page 6, lines 16-20; FIG. 2)

The nature of Applicant’s interactive electronic ball game, as now claimed, is therefore vastly different from other types of electronic ball games, which simply detect the motion of a ball and project on a screen, having a scenic game course, the likely path that the ball will follow – or would have followed – had the play been on a real playing course, such as a golf course.

As will be explained in greater detail hereinafter, nowhere in the prior art is such a novel and challenging interactive electronic ball game, which provides responsive video displays in reaction to the trajectory of a ball hit by a player, either disclosed or suggested.

By the present amendment, Applicant has amended independent Claim 18 (and all remaining claims via dependency) to now positively recite “means for player interaction

with said ball” and “means for reacting by said interactive ball game” to make clear that the claimed electronic ball game responds to the manner of play, or how the game ball is hit by the player, rather than simply showing how, or where, a ball hit by the player is likely to land on a playing course. Claim 18 recites that the interactive ball game of the present invention seeks “to challenge” or “compete against” the efforts of the player. Subject matter support for this recitation can be found in Applicant’s textual disclosure at Page 6, as well as FIG. 2 of the drawing figures, in which the claimed electronic ball game will provide display video that may attempt to block, or may actually block, a kick attempt made in an interactive electronic football game.

As part of the first Office Action, the Examiner has rejected dependent Claims 21-24 and 27-31 as being indefinite, pursuant to 35 U.S.C. §112, second paragraph, on the ground that the enumerated claims of the rejection did not further limit the scope of independent Claim 18. Specifically, the Examiner has contended that independent Claim 18 recites “means for preventing said ball from hitting said screen and ball sensing means for detecting motion of said ball.” According to the Examiner, Applicant’s *Specification* defines the foregoing claim elements “as that which is claimed in claims 21-24 and 27-31.”

In reply to the Examiner’s foregoing indefiniteness rejection, independent Claim 18 is submitted to broadly – and generically – recite “means for preventing said ball from hitting said screen” and “ball sensing means for detecting motion of said ball.” Dependent Claims 21-24 and 27-31 have been drafted to recite specific preferred embodiments,

or species, of the generically broader recitation of independent Claim 18. In this regard, dependent Claims 21-24 and 27-31 are but one embodiment of, or manner for practicing the, claimed invention, more broadly recited in Claim 18. Viewed this way, it is respectfully contended that dependent Claims 21-24 and 27-31 each recite a narrower limitation of a claim element more broadly recited in independent Claim 18, and therefore properly limit Claim 18, as required by 35 U.S.C. §112.

To the extent that the basis for the Examiner's 35 U.S.C. §112 rejection is that dependent Claims 21-24 and 27-31 recite, in their entirety, the features broadly claimed in Claim 18, and that Claim 18 cannot more broadly claim the features of Claims 21-24 and 27-31 (which would necessarily mean that Claims 21-24 and 27-31 could not narrow the scope of Claim 18), it is respectfully submitted that the Examiner's rejection is based upon an incorrect legal theory. A patent applicant's claims are not usually limited to the scope of the preferred embodiments disclosed in the Specification, which is what the Examiner would appear to be arguing, if Applicant's counsel properly understands the Examiner's §112 rejection. See, Abbott Laboratories v. Baxter Pharmaceutical Products, Inc., 334 F.3d 1274, 67 USPQ2d 1191, 1195-1196 (Fed. Cir. 2003) ("This court interprets patent claims in light of the specification, but this axiom 'does not mean that everything expressed in the specification must be read into all of the claims.'"), citing Teleflex Inc. v. Ficosa North America Corp., 299 F.3d 1313, 1326, 63 USPQ2d 1374, 1381 (Fed. Cir. 2002); R.F. Del. v. Pac. Keystone Techs., Inc., 326 F.3d 1255, 1263, 66 USPQ2d 1593, 1598 (Fed. Cir. 2003) ("Claims are not necessarily and not usually limited in scope simply to the preferred embodiments.").

Accordingly, withdrawal of the Examiner's 35 U.S.C. §112, second paragraph, indefiniteness rejection of dependent Claims 21-24 and 27-31 is respectfully requested.

Turning now, in detail, to the Examiner's prior art rejection of Applicant's claims, in the first Office Action the Examiner has rejected Claims 18-32 as being obvious, pursuant to 35 U.S.C. §103(a), over Bair *et al.*, U.S. Patent No. 5,846,139, taken in view of Curshod, U.S. Patent No. 5,221,082. It is the Examiner's contention that the primarily-applied reference of Bair *et al.* teaches an interactive ball game in which a ball is projected by a player that provides input, or motion, for the interactive game ball, which includes a ball and a screen upon which the interactive ball game is displayed with the screen acting as a target in Bair *et al.* The Examiner correctly notes that Bair *et al.* does not disclose means for preventing the game ball from hitting the screen – a feature for which the Examiner has secondarily applied Curshod. The Examiner has therefore concluded that it would have been obvious to have provided the net in Curshod for protecting the game screen used in Bair *et al.* to have arrived at that previously claimed by Applicant, thereby rendering Applicant's claimed invention obvious.

In reply to the Examiner's obviousness rejection applying Bair *et al.*, taken in view of Curshod, it is respectfully submitted that each of the applied citations discloses a "golf simulation" apparatus, in which a player strikes a golf ball with a golf club thereby sending a golf ball in motion toward a screen. The simulation apparatus of each reference projects where the golf ball will travel on a video display of a golf course. Neither Bair *et al.* nor Curshod provide a simulation system, an interactive electronic ball game, in

which the video display seeks to challenge, or compete against, the player in response to the manner by which the player has struck the game ball. Each of the simulation devices of the applied references merely shows where a golf ball might land on a simulated golf course. There is no “counter,” or opposing, action taken in the video display in response to the trajectory of the ball hit by the player – the golf course does not try to “block the hole” the way Applicant’s claimed invention would seek to have a video display showing an opposing team’s players who might try to block (or at least attempt to block) a football kicked by the player.

In light of the foregoing, it is respectfully contended that the Examiner’s 35 U.S.C. §103(a) obviousness rejection of the first Office Action, which applies Bair *et al.*, taken in view of Curshod, has now been overcome and it is respectfully requested that the issued obviousness rejection be withdrawn.

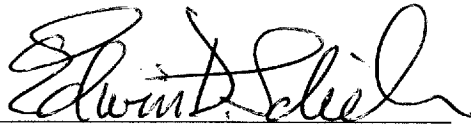
Concerning, finally, the remaining references cited by the Examiner, but not applied in any rejection of Applicant’s claims, such additional references have been carefully considered, but are not deemed to adversely affect the patentability of the present invention, as now claimed.

In view of the foregoing, it is respectfully contended that all claims now pending in the above-identified patent application (*i.e.*, Claims 18-32) recite a novel and challenging interactive electronic ball game, which provides responsive video displays in reaction

to the trajectory of a ball hit by a player, which is patentably distinguishable over the prior art. Accordingly, withdrawal of the outstanding rejection and the allowance of all claims now pending are respectfully requested and earnestly solicited.

Respectfully submitted,

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Enc.: 1. Petition for Three-Month Extension of Time for Response; and,
2. EFT for \$555.00 (Three-Month Extension Fee).

The Commissioner for Patents is hereby authorized to charge the Deposit Account of Applicant's Attorney (*Account No. 19-0450*) for any fees or costs pertaining to the prosecution of the above-identified patent application, but which have not otherwise been provided for.